

IV. REMARKS ON THE AMENDMENT TO THE CLAIMS

- Claims 10 and 35 have been amended in response to the rejection under 35 U.S.C. § 112, second paragraph. The amendment also addresses the objection to claims 10, 13-15 and 35 based upon inclusion of non-elected subject matter.
- Claim 21 was amended in response to the rejection under 35 U.S.C. § 112, second paragraph. Claim 21 was also amended to clarify the claim language.
- Claim 36 was amended in response to the rejection under 35 U.S.C. § 112, second paragraph.
- Claim 38 was amended in response to the rejection under 35 U.S.C. § 112, second paragraph.
- Claim 43 was canceled thereby rendering moot the rejection under 35 U.S.C. § 112, second paragraph.
- Claim 13 was amended to clarify the claim in response to the amendment to claim 10.
- Although withdrawn from consideration by the Examiner, Claims 16-20 were amended so that the language was similar to claim 10. It is anticipated that this amendment will accelerate prosecution in the event that The Office grants Applicant petition for withdrawal of the restriction requirement. In the event that the petition is again denied, these claims can be again amended or canceled.
- Although withdrawn from consideration by the Examiner, Claims 24-28 were amended to clarify claim language. It is anticipated that this amendment will accelerate prosecution in the event that The Office grants Applicant petition for withdrawal of the restriction requirement. In the event that the petition is again denied, these claims can be again amended or canceled.
- Claim 45 was amended to delete non-elected subject matter.

V. RESPONSE TO THE OBJECTIONS/REJECTIONS

1. Objections:

In response to the objection stating that certain of the claims as still containing non-elected subject matter, a request for reconsideration of the Decision on Petition (dated April 12, 2005) was filed by Applicant on June 10, 2005. Until action on said request for reconsideration has been taken, it is believed that the requirement to amend the claims to redact said non-elected subject matter is improper. Accordingly, some of the claims have not been amended. As stated in the remarks section above, others have, notwithstanding the request for consideration of the restriction requirement, been amended to redact the non-elected subject matter. Accordingly, it is believed that claims 10, 13-15, 35 and 45 do not include non-elected subject matter that therefore should now be allowable.

2. Rejections based upon 35 U.S.C. § 112, second paragraph

This response includes a request for amendment to claims 10, 21, 35, 36, 38. Based upon said amendments, it is believed that these rejections are now moot. Claim 43 was canceled. Accordingly the rejection of claim 43 should now be moot.

VI. SUMMARY

In consideration of the preceding amendments and remarks, Applicant hereby respectfully requests reconsideration of all pending claims. Applicant reiterates that it is believed that claims 10, 13-15, 35 and 45 are free of non-elected subject matter. Any amendment of claims still containing non-elected subject is being stayed until a decision on Applicant's renewed petition for reconsideration of the restriction requirement.

VII. INTERVIEW

If the Examiner believes that a telephonic or personal interview would advance the prosecution of the subject application, the Examiner is invited to contact attorney Gildea during business hours at the telephone or facsimile numbers listed below.

VIII. FEES

The fee for consideration of the supplemental IDS has been separately authorized with the IDS papers. Because this response to the Office Action has been timely filed within the shortened statutory period, it is believed that no fees are due for consideration of this submission. If however, The Office determines that a fee is due, authorization is hereby granted to charge any required fee associated with the filing or proper consideration of this paper to Deposit Account 01-2213 (Order No. BP9806US-CP2)

IX. CORRESPONDENCE/CUSTOMER NUMBER

Please send all correspondence pertaining to this document to:

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IF NOT ALREADY DONE, PLEASE MATCH THIS CASE WITH CUSTOMER NUMBER
23544

July 25, 2005
Date

Respectfully submitted
on behalf of Applicant,

Brian D. Gildea
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Reg. No. 39,995